

United States Senate

WASHINGTON, DC 20510-4305

May 15, 2013

Via Electronic Transmission

The Honorable Eric Holder
Attorney General
United States Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, DC 20530

Dear Attorney General Holder:

I write concerning reports that the Department of Justice broadly obtained records of telephone lines assigned to the Associated Press and its journalists. The scope of the reported seizure – records of more than 20 numbers, including press bureaus and home and cell phone lines of journalists, over two months in 2012 – raises serious questions about the government's investigative tactics and respect for the freedom of the press guaranteed by the First Amendment. Over broad, aggressive targeting of the press with criminal investigation potentially imperils the freedom on which our democracy rests.

According to a letter by Mr. Gary B. Pruitt, President and CEO of the AP, that organization received notice on Friday from U.S. Attorney Ronald C. Machen, Jr., that he had obtained the records in question without notice either to the AP or its journalists. Mr. Machen apparently sought the records as part of his investigation into several apparent leaks of sensitive national security information last year. When those leaks came to light, members of Congress, myself included, demanded an independent investigation. You refused and appointed Mr. Machen.

Justice Department regulations sensibly discourage fishing expeditions of the press and require the Attorney General's authorization before the issuance of any subpoena to a member of the news media or for the telephone toll records of a member of the news media. The regulations – important guarantees of press freedom – should result in modest use of such subpoenas, which makes your statement yesterday that you were not sure how many you had authorized troubling. I want to understand fully your involvement in this matter: what you knew, when you knew, what you authorized and what basis you had for making the decisions you did. To the extent you were not involved, I want to know who was, what they decided and whether they regard Mr. Machen's actions as consistent with department regulations.

The leaks that led to Mr. Machen's investigation reportedly emanated from the highest levels of the Administration. The response to that ought to have been aggressive inquiry into those in the Administration with access to the information allegedly leaked. What we are seeing now is an aggressive investigation into the journalists who reported the leaked information. In my view, the Justice Department should be more aggressive in its investigation of the leaker(s), and out of proper regard for the First Amendment, less sweeping in its intrusion into the constitutionally protected activity of those who reported the leak.

I appreciate your prompt and thorough answers to the questions I have raised in this letter.

Sincerely,



JOHN CORNYN
United States Senator